

Honorable John H. Chun

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KURT BENSHOOF, ARW. By and Through  
His Father, KURT A. BENSHOOF,

Plaintiffs,

v.

MARSHALL FERGUSON, *et al.*,

Defendants.

No. 2:24-cv-00808-JHC

DEFENDANT JESSICA A.  
SKELTON'S RESPONSE TO  
PLAINTIFFS' MOTION TO AMEND  
COMPLAINT

NOTED ON MOTION CALENDAR:  
January 6, 2025

**I. INTRODUCTION**

This matter has come before the Court on Plaintiff's Motion to Amend Complaint. Dkt. #57. While styled as a motion for leave to file a First Amended Complaint, it appears that Plaintiff is actually seeking to amend a Petition for Habeas Corpus in another case that is currently assigned to Judge Whitehead. *See Dkt. #57, Ex. 1 and Case No. 24-cv-01110-JNW*. It is not clear how Ms. Skelton is related to that action; however, Plaintiff states in his motion, "[c]urrent defendants – who are all attorneys – Blair Russ, **Jessica Skelton**, Michael Tracy, and Sarah Turner have engaged in parallel acts to render criminal assistance to the kidnapping of A.R.W., and to prevent Benshoof from seeking redress in violation of 18 U.S.C. § 1512(b), a predicate act under Civil

DEFENDANT JESSICA A. SKELTON'S  
OPPOSITION TO PLAINTIFFS' MOTION TO  
AMEND COMPLAINT - 1  
Cause No. 2:24-cv-00808-JHC

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1 RICO.” Dkt. #57 at 2 (emphasis added). Accordingly, to the extent that Plaintiff is seeking to  
 2 amend his Complaint or Petition against Ms. Skelton, and for the reasons discussed herein, Ms.  
 3 Skelton asks the Court to deny the motion. Further, Ms. Skelton asks that all claims against her  
 4 now be dismissed with prejudice.

## 5 **II. FACTUAL BACKGROUND**

6 This Court is familiar with the history of these proceedings, and therefore Ms. Skelton does  
 7 not repeat it here. For purposes of this motion, the following facts are relevant.

8 On August 9, 2024, this Court issued an Order granting, *inter alia*, Ms. Skelton’s motion  
 9 to dismiss the claims against her, but informing Plaintiff that he may seek leave to amend the  
 10 complaint with respect to those claims. Dkt. #40. Specifically, that Order stated:

11 For the reasons set forth in Skelton’s motion, the Court DISMISSES the claims  
 12 against Skelton without prejudice. As presented thus far, the claims clearly lack any  
 13 merit. Plaintiff may seek leave to amend the complaint with respect to the claims  
 14 against Skelton.

15 Dkt. #40 at 2.

16 Plaintiff was incarcerated at the time that Order was issued, and he subsequently filed a  
 17 Motion to Stay the proceedings “indefinitely.” Dkt. #41 at 1-2. Ms. Skelton also interpreted that  
 18 motion as a request for additional time to amend his claims against her and opposed the request.  
 19 The Court denied the motion without prejudice. Dkt. #45. Plaintiff then filed another motion for  
 20 an emergency stay, which the Court also denied. Dkts. #46 and #48. Plaintiff filed a motion for  
 21 reconsideration of several of the Court’s Orders, which was denied. Dkts. #50 and #53. In the  
 22 meantime, the Court also granted a motion to dismiss Defendant Ferguson with prejudice. Dkt.  
 23 #51.  
 24  
 25  
 26  
 27

1 Plaintiff then filed an appeal with the Ninth Circuit Court of Appeals. Dkt. #54. On  
 2 December 19, 2024, the Court of Appeals found that it lacked jurisdiction over the appeal and  
 3 dismissed it. Dkt. #58. The instant motion followed.

### 4 **III. LEGAL STANDARD**

5 Pursuant to Local Civil Rule 15(a):

6  
 7 A party who moves for leave to amend a pleading must attach a copy of the  
 8 proposed amended pleading as an exhibit to the motion. The party must indicate on  
 9 the proposed amended pleading how it differs from the pleading that it amends by  
 10 bracketing or striking through the text to be deleted and underlining or highlighting  
 11 the text to be added. The proposed amended pleading must not incorporate by  
 12 reference any part of the preceding pleading, including exhibits. . . .

13 Local Civil Rule 15(a).

### 14 **IV. ARGUMENT**

15 As an initial matter, Plaintiff has failed to comply with the Court's Local Rule. Rather than  
 16 attaching a copy of a proposed amended complaint to his motion, Plaintiff has attached a 145-page  
 17 Amended Petition for Writ of Habeas Corpus which names "Warden," City of Seattle, and King  
 18 County as Defendants. Dkt. #57, Exhibit 1. There is no mention of Ms. Skelton in that Petition. *Id.*  
 19 Likewise, Plaintiff has attached 640 pages of exhibits to the Petition, and Ms. Skelton is not named  
 20 in any of those exhibits. Dkt. #57, Exhibit 2. Because Plaintiff has failed to file a proposed  
 21 amended complaint indicating how it differs from the original pleading, nor has he included Ms.  
 22 Skelton in the proposed pleadings, his motion must fail. Local Civil Rule 15(a).

23 Moreover, it has been four months since Plaintiff's original allegations against Ms. Skelton  
 24 in this matter were dismissed, and Plaintiff has made no effort to amend his allegations against  
 25 her. *See* Dkt. #40. Plaintiff clearly knows how and is able to file such a motion, as evidenced by  
 26 the instant one. Yet, even a brief review of the current filings demonstrates no ability to cure any

defects in the claims against Ms. Skelton. Allowing more time to amend would be futile. *Smart Apparel (U.S.), Inc. v. Nordstrom, Inc.*, 720 F. Supp.3d 1070, 1080 (W.D. Wash. 2024). Further, failing to dismiss the claims with prejudice creates uncertainty for Ms. Skelton as to the future potential of new or amended claims against her, requiring her to continue to retain legal counsel and incur legal costs by actively participating in a matter in which the claims against her have been dismissed. This Court has already determined that Plaintiff's claims against Ms. Skelton lack "any merit." Dkt. #40. Plaintiff has now had the opportunity to seek leave to file an amended complaint, but has failed to properly do so. Accordingly, the claims against Ms. Skelton should now be dismissed with prejudice for the reasons set forth above and in her prior motion. *See* Dkt. #27.

## V. CONCLUSION

Ms. Skelton respectfully requests that Plaintiff's motion for leave to file an amended complaint be denied and asks that all claims against her be dismissed with prejudice.

I certify that this memorandum contains 916 words, in compliance with the Local Civil Rules.

DATED this 30<sup>th</sup> day of December, 2024.

PACIFICA LAW GROUP LLP

By: /s/ Sarah S. Mack

Sarah S. Mack, WSBA #32853

*Attorneys for Defendant Jessica A. Skelton*

**CERTIFICATE OF SERVICE**

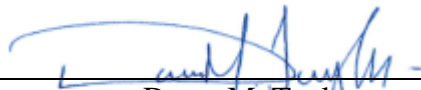
I am and at all times hereinafter mentioned was a citizen of the United States, a resident of the State of Washington, over the age of 21 years and not a party to this action. On the 30th day of December, 2024, I caused to be served a true copy of the foregoing document upon:

Mr. Howard Brown  
1003 W. Michigan St.  
Hammond, LA 70401

- ☐ via facsimile
- ☐ via overnight courier
- ☒ via first-class U.S. mail
- ☐ via email
- ☐ via electronic court filing
- ☐ via hand delivery

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 30th day of December, 2024.

  
Dawn M. Taylor